

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>STEVEN R. LEVAN</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 219,662
<b>PETERSON INDUSTRIES, INC.</b>	)	
Respondent	)	
AND	)	
	)	
<b>EMPLOYERS MUTUAL CASUALTY</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent appeals from a preliminary decision entered by Administrative Law Judge Bruce E. Moore on April 30, 1997.

**ISSUES**

Respondent contends that the Administrative Law Judge exceeded his jurisdiction in ordering benefits because claimant's injury did not arise out of and in the course of his employment.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Claimant suffered an initial injury to his left eye in November 1994. The injury occurred when claimant, who was blind in his right eye from a previous industrial accident, poked his left eye with a pair of needle-nosed pliers while pulling on wires in an electrical box. Claimant was treated for the injury by John C. Pokorny, M.D. Dr. Pokorny eventually referred claimant to Mark Wellemeyer, M.D., who performed two corneal transplants. The last transplant occurred on May 3, 1996. Claimant was not expected to be able to return to work for at least four to six months following the transplant surgery. On June 2, 1996,

approximately one month after the second corneal transplant surgery, claimant fell when he misjudged a step at his home. Claimant testified that his vision had not recovered following the surgery, and he fell because he was unable to see the step. As a result, claimant required additional medical treatment and additional surgeries for a detached retina.

Respondent contends that the fall from the porch on June 2, 1996, constitutes a noncompensable intervening accident. The Appeals Board disagrees. The Board finds, as did the Administrative Law Judge, that the primary cause of the accident on June 2, 1996, was the original compensable injury in November 1994. The Appeals Board, therefore, agrees with and affirms the decision by the Administrative Law Judge.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the decision by Administrative Law Judge Bruce E. Moore should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 1997.

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BOARD MEMBER

c: Melvin J. Sauer, Jr., Hays, KS  
J. Randall Clinkscales, Hays, KS  
James M. McVay, Great Bend, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director